UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,692	12/10/2001	Michael Patrick Lyons	P 280456 702176 REG	9882

909	7590	07/30/2004

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EXAMINER
HAMILTON, ISAAC N

ART UNIT	PAPER NUMBER
3724	

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action	10/007,692	LYONS ET AL.
	Examiner	Art Unit	
	Isaac N Hamilton	3724	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY</u> [check either a) or b)]

a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

    (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
        NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☒ Other: *PTO-892 is attached.*

KENNETH E. PETERSON
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: Applicants assertions are not persuasive. Applicant asserts that the nut/force applying device 22 does not move the bolt/force applying element 15. It is believed that the nut 22 allows the bolt 15 to move due to the method of moving adjustable post 12 as highlighted by the applicant. The applicant's broad limitation of "said force applying device constructed and arranged to move said force applying element" is satisfied by the procedure disclosed on page 2, lines 21-47 of Kirsten. It is believed that the applicant's limitations of "contructed and arranged" does not define the force applying element to be directly moved by the force applying device, moreover, it is believed that the applicant is claiming this configuration vaguely in order to encompass several different configurations which do not include the force applying device to directly move the force applying element. Applicant asserts that Wallis (4,774,865) does teach moving and locking the adjustable post. It is believed that Wallis clearly shows moving an adjustable post 15, and discloses locked positions when the punch plate 15 is in the upward position and when the punch plate 15 is in the lowered position in figure 1. Further note column 2, lines 12-17, which describe locked positions in Wallis. The combination of Kirsten and Wallis is obvious in order to automate the adjusting of a post, which is further evidenced in several additional references that show a pressurized cylinder moving an adjustable post used in a shearing apparatus. An example of such references is Muhr (4,638,703) which clearly shows a pressurized cylinder 13 moving and locking an adjustable post 4, 5 in a shearing apparatus .

KENNETH E. PETERSON
PRIMARY EXAMINER

2